

# IN THE HIGH COURT OF SINDH KARACHI

**Before:**

Mr. Justice Aftab Ahmed Gorar  
Mr. Justice Adnan-ul-Karim Memon

**C.P. No. D-629 of 2021**

*(Amanullah Brohi v. The Chief Secretary, Government of Sindh and 02 others)*

Malik Naeem Iqbal, advocate for the petitioner

Mr. Ali Safdar Depar, AAG along with Ghulam Ali Birhmani,  
Additional Secretary (Services-I), SGA&CD Karachi.

Date of hearing  
& order : **17.02.2022**

## **ORDER**

Through the captioned petition, the petitioner has called in question his deferment for promotion to the post of Deputy Administrator Zakat (BPS-18), inter alia, on the ground that he has been exonerated from the charges leveled against him vide office order dated 17.12.2021 issued by Auqaf, Religious Affairs, Zakat & Urshar Department, Government of Sindh.

Malik Naeem Iqbal, learned counsel for the petitioner, has submitted that inquiry on the subject issue has already culminated in favor of the petitioner, now, his promotion is due in the next rank in line with the recommendations of the Departmental Promotion Committee. Per learned counsel, the promotion of the petitioner has wrongly been withheld since August 2019. Per learned counsel, no one could be punished by denying him promotion or consideration for promotion before the charge is established against him; that mere pendency of disciplinary proceedings is no ground for denying consideration for promotion; he next argued that though promotion is not the petitioner's vested right, consideration for promotion under the law, indeed is his right; that there cannot be an absolute bar on promotion and findings of the Departmental Promotion Committee in its previous meeting does cover the case of prolonged pendency of disciplinary proceedings since 2019; he prayed for a direction to the competent authority of respondents to notify his promotion in BPS-19 under the recommendations of DPC. Learned counsel for the petitioner placed reliance on the law laid down in the cases of Salah Uddin Mughal v. Province of Sindh and 2 others (2012 PLC CS1018), Muhammad Ayaz Khan v. Government of Sindh and others (2007 PLC CS 716), Nazeer-ud-Din v. Government of Pakistan and others (2017 PLC CS 578).

At the outset, Additional Secretary (Services), SGA&CD, Government of Sindh, has submitted that the case of the petitioner for his promotion to the next rank shall be notified in the light of recommendations of the previous DPC. He further submitted that since the petitioner has already been exonerated from the charges of disbursement of two cheques issued in September 2008 amounting to Rs.18000/-, therefore, there is no further impediment in promoting the petitioner in the next rank.

Learned AAG has no objection to the proposition put forward by the learned counsel for the petitioner.

We have heard learned counsel for the parties and perused the material available on record.

We have noticed that this court vide order dated 14.11.2018 passed in CP No.D-6701/2015, directed the Secretary, Zakat, and Usher to constitute a committee headed by him and another appropriate member co-opted by him, conduct an inquiry of embezzlement in Zakat / public funds and fix responsibility against the delinquent officials. The respondent department constituted the committee and submitted a compliance report, whereby the petitioner was honorably acquitted from the allegations.

In the attending facts and circumstances of the case, and because of the stance of the respondents and submission of learned AAG, this Court is left with no option but to direct the respondents to notify the promotion of the petitioner in next rank positively from the receipt of a copy of this order.

The petition is disposed of in the above terms.

**JUDGE**

**JUDGE**

Nadir\*